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Editorial Words

Dear Distinguished Readers,

In the realm of academia, where the pursuit of knowledge and the sharing of wisdom take center stage, we are delighted to introduce the second issue of Volume 27 of the ASEJ Scientific Journal. This publication, in partnership with the Bielsko-Biala School of Finance and Law, continues to serve as a repository of intellectual exploration and a testament to the wealth of contemporary research.

Within the pages of this volume, a diverse collection of scholarly articles awaits. Each article represents a facet of our collective commitment to understanding the intricate tapestry of global concerns. From the realm of education to the intricacies of energy security, from the digital landscape to geopolitical intricacies, these articles provide valuable insights and open doors to meaningful discourse.

The essence of this volume lies in its unwavering dedication to furthering our comprehension of complex subjects. These articles, penned by experts and scholars who are leaders in their fields, are a testament to the rigorous examination and exploration of topics that resonate with our ever-evolving world.

As you embark on this intellectual journey through Volume 27, No. 2, we invite you to consider the broader tapestry of knowledge it presents. Each article adds depth and dimension to the ongoing conversations surrounding the most pressing issues of our time. Together, they form a mosaic of thought, offering fresh perspectives, innovative solutions, and a deeper understanding of the complexities that define our contemporary world.

These articles are more than words on paper; they represent the collective pursuit of wisdom and the desire to share it with our readers. In each piece, you will find the dedication of researchers who have invested their time, expertise, and energy to illuminate the issues at hand.

We encourage you to engage with these articles, to discuss and debate their findings, and to contribute to the ongoing dialogue that drives the pursuit of knowledge. We trust that this volume will not only inform but also inspire, and that the insights it offers will be a valuable addition to your intellectual journey.

The imperative role of risk management in ensuring the security of logistics processes within small service enterprises is illuminated, emphasizing the significance of mitigating risks in this sector. Safety management in the context of ISO 9000 quality management systems is dissected, underscoring the pivotal role of these systems in ensuring the safety and quality of organizations.

We invite you to immerse yourselves in this eclectic collection of scholarly works, each a beacon of knowledge and insight into these crucial subjects. The articles contained within this volume aspire to stimulate discussion, foster a deeper understanding, and inspire further exploration. We trust that the journey through these pages will be an intellectually enriching experience for all our readers.

Doc. Dr Kateryna Pilova Editor of the ASEJ, Issue 2, Volume 27, 2023.

The concept of a communication event – in the polish legal system

Dawid Migdał¹, Oliwia Wieczorek²

¹ Bielsko-Biała School of Finance and Law, *Poland*

² Pedagogical University in Cracov, *Poland*

Abstract— In order to create a basis for further considerations, it is necessary to explain the basic concept of a communication event. There is no such definition in the doctrine; it must be sought in other sources. An example of such a place is, of course, the PWN Polish language dictionary (PWN, 2021), according to which an event is "something that happened". Communication, in turn, is the movement of means of transport between distant places, e.g. roads (PWN, 2021). By combining these two definitions, it can be stated that a traffic event is a situation that occurred on the road in which at least one vehicle was involved - it does not have to be a motorized vehicle, and the effect of such an event is destruction of property, damage to health, and sometimes even the death of the person involved in the incident (ZPE, 2022). Of course, for such an event to occur, there must be additional factors apart from the road itself, such as a person and a vehicle. These 3 elements are a kind of triangle that will always appear in a communication event. (Diupero, Pawelec, Sekuła, Krzemień, Pawelec, 2020, p. 17)

Keywords- civil law, accident, road accident, tort, law

I. INTRODUCTION

In most cases, it is the person who will be the "weakest link" (Gaberle, 1986, p.15) of the above-mentioned elements.

It is worth considering the distinction between an event and a tort. Similarly to a traffic incident, tort is a concept that is difficult to classify because currently such a concept does not appear directly in Polish law. This group of acts may include, in addition to the culpable behavior of a person, also other various human actions and events that do not belong to this group of events. One can only say about them a critical, negative assessment (Radwański, Olejniczak, 2014, p. 197). The Polish Civil Code placed tortious acts in Title VI of the third book of the above-mentioned act. The provisions on this issue begin with Article 415 and end with Article 449 of the Civil Code. The provisions mentioned do not link liability for damages with failure to perform an obligation. Here, responsibility results from the obligation to repair the damage caused by a given incident (Olejniczak, p. 354). A tort will, of course, lead to liability for the damage caused, provided that there is a causal relationship between the action and the damage (Dubis, 2014, p.769). It is worth adding that liability for tort under Polish civil law will not only include culpable human actions, but also non-culpable actions and events that are not the acts of civil law entities (Olejniczak, p. 354). The next concept that will be of great importance in the context of communication events is damage. The difference in goods that occurs after the event compared to before the incident may be considered as damage. The loss may occur as a loss, reduction or non-increase of assets, or the creation or increase of liabilities (Kaliński, 2018, p. 82) . As mentioned earlier, this is a very simple definition, but a more extensive one will appear later in the work. There are two more types of communication events in land transport. These are road accidents and collisions. However, a traffic incident is not only a situation occurring on land. The group of events can also include a railway, sea or air event. The section of railway accidents is defined by law (Journal of Laws of 2003, No. 86, item 789) . We can distinguish collisions, derailments, events at crossings, events involving people caused by a railway vehicle in motion, and fire in a railway vehicle. The remaining groups have not been regulated by the legislator and it is not possible to directly indicate the types of events in air and sea traffic.

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II. ROAD ACCIDENT

In everyday language, people very often use three concepts when saying that a road accident occurred on the road. These

e difference is huge. It applies not only to sanctions for violating the law, but also to proceedings at the scene of the incident (Dziurkiewicz, 2021). A road accident is a situation in which an accident occurs on a road in land traffic. The driver of the vehicle unintentionally violates the safety rules in land traffic, which results in material losses, for example a damaged car, and death or bodily injury resulting in impairment of the functions of a body organ or health disorder lasting longer than 7 days. The legislator defined the crime of a road accident in Article 177 of the Penal Code. This offense is punishable by imprisonment for up to 3 years if the person has suffered injuries specified in Art. 157 §1. A person may be subject to a greater penalty if the accident results in death or serious bodily injury. In such a situation, the person may be sentenced to imprisonment from 6 months to 8 years. It is worth noting that when the injured party is only a relative, the prosecution of the crime takes place at the person's request, while when the conditions set out in Article 177 §2 of the Penal Code are met, the crime is prosecuted ex officio. It does not matter whether it was a person closest to or a stranger to the perpetrator of the event (Dziurkiewicz, 2021) When it comes to the process of explaining how a specific accident occurred, there are three components. These are: activities carried out at the scene of the incident, expert opinion, and verification of the collected evidence by the appropriate authority conducting the proceedings. While the first and last components are an inseparable element of explaining the circumstances, an expert opinion is not required in every case. Activities carried out at the scene of the incident (if performed reliably and precisely) may have a huge impact on the further course of proceedings. The first thing a policeman should do at the scene of an accident is to protect the place against destruction of traces. Of course, it is not always as easy as it seems, because many factors will influence the appropriate security of the scene. The first one will be the time after which the police will be called and arrive at the scene of the incident. If it is not a long period of time, there is a good chance that potential traces will not be destroyed by people involved in the incident, witnesses, or people who appear after the incident to help the injured. Another factor is the place where the incident occurred. If the incident took place in the city center, it is known that there will be a large number of witnesses and onlookers. However, if the accident takes place in the forest, the number of people will decrease dramatically and it will be easier for the police to secure traces. Another element that may make it difficult to secure the scene of the accident may be the ignorance of the law by the people involved in the accident. The Road Traffic Law, Article 44, point 3, clearly states that the driver cannot remove the vehicle from the scene of the accident if there are injured or killed persons (Journal of Laws of 1997, No. 98, item 602). Changing the position of the cars involved in the incident will make it more difficult for the Police, for example, to detect the perpetrator or determine the course of the accident. The next stage of the policeman's inspection should be to carefully examine the scene of the incident and prepare a

are accident, collision, and the very colloquial expression "crash". In everyday language there is no difference between these concepts, people often use the above-mentioned concepts interchangeably, but in legal language th

sketch. The policeman should carefully check the terrain, visibility, and the location of the accident (whether it occurred on a straight section of the road, on a curve, on a hill, etc.). Such a carefully prepared protocol will be very helpful for the authorities conducting the proceedings (Palestra, 2021) . The next element is the questioning of witnesses. It is important that this happens at the scene of the incident. This allows the witness to avoid presenting the events favorably and "memory lapses". The report should indicate where the witness was at the time of the incident to avoid a situation in which the witness himself imagines how the incident occurred. The last stage of police work on site is taking photos and preparing a memorandum (Dziurkiewicz, 2021). As I have already mentioned, an expert's opinion is not always required to resolve a case. An expert is appointed pursuant to Article 193 §1 of the Code of Criminal Procedure when ... the determination of circumstances that are significant for the resolution of the case requires special information... (Journal of Laws 1997, No. 89, item 555). When appointing an expert, remember that it does not have to be just a court expert, but any person known to have the appropriate knowledge to prepare an opinion. The last element is verification of evidence. It is the Court's responsibility to ensure that all evidence has its value, is collected and secured in an appropriate manner. The court must check whether the witnesses' testimonies match what the evidence shows, for example photos. Material evidence has the advantage that it cannot be considered false, it can only be poorly secured (Dziurkiewicz, 2021) There were 23,540 road accidents in Poland in 2020. As you can see in the chart above, the trend of accidents in Poland is decreasing. The peak in the number of accidents occurred in the 1990s. This resulted in a change of the political system in Poland. Before the fall of communism, cars were not available like they are now. New cars were available on the so-called "voucher", another way to buy a new car was to wait in line. Here the waiting time was a minimum of 8 months and a maximum of 4 years. People who already had their own car could refuel it only a few times a month and only with a dozen or so liters of fuel (Kozłowski, 2020). In the early 1990s, the automotive industry flourished in Poland. Importers of new cars from that time declared that in 1999 they sold nearly 650,000 new cars. Among them, Polonaises, Fiats and Daewoos reigned supreme. Of course, it was also possible to buy a used car. The most popular brands from those years were Volkswagen and Audi (Pytlos, 2014). Another opening of the car market was Poland's accession to the European Union. It then became possible to import cars from abroad. For comparison, in 2003, only 33,000 used cars were imported into Poland, and the following year this number reached several hundred thousand. The graph clearly shows that accession to the EU resulted in a decrease in the number of accidents. Poles began to drive safer cars than before. Cars from the Western market were much more technically advanced than domestic vehicles. They had safety systems such as ABS, which the Polish Polonez could only dream of.

FIGURE 1: A CHART SHOWING THE NUMBER OF ROAD ACCIDENTS IN POLAND IN THE YEARS 1990-2020



Source : Own study based on (Symon, 2020)

III. THE ESSENCE OF CONFLICTS IN POLISH LAW AND PRACTICE

The concept of a collision is much less complex than the definition of a road accident. A collision is a concept similar to an accident. The collision results in material losses or injuries lasting less than 7 days to the person involved in the collision (Dziurkiewicz, 2021). The effects of the collision are much smaller than in the case of the accident, therefore the legal regulation of the collision is in Article 86 of the Code of Petty Offenses, and not in the Penal Code, as was the case with the accident. The penalty for causing a collision is also different than in the case of an accident. Here the person is only liable to a fine. The situation changes if the driver was under the influence of alcohol. In such a situation, he or she may be subject to a fine, restriction of liberty or arrest. Additionally, the court may order a driving ban for a driver under the influence of alcohol. The behavior of people involved in a collision also differs. In the event of an accident, removing the car from the road was even prohibited by law, while in the event of a

collision it is the drivers' obligation to remove their vehicles from the road without causing a hazard to road traffic. Additionally, in the event of a collision, the people involved do not have to call the police to resolve the matter. Participants can communicate with each other and settle the matter in an amicable and conciliatory manner. Not having to call the police for collisions affects annual reports as not all incidents are reported.

As you can see in the chart above, the number of collisions in Poland is on average around 350,000-400,000 per year. The chart shows only reported collisions, their actual number may be much higher due to the actual number of road collisions that were never reported. The reason for the large number of collisions is the ease with which they occur. An example of a collision may be a simple collision between two cars in a parking lot, for example when one reverses and hits another properly parked car. In such a situation, many people will want to reach an agreement among themselves rather than calling the police to solve the case. Such an example will not be included in the statistics of disclosed collisions.

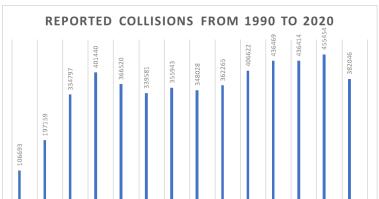


FIGURE 2: CHART SHOWING REPORTED POLICE COLLISIONS FROM 1990 TO 2020

1990 1995 2000 2005 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 Source: Own study based on (Symon , 1990-2020

IV. THE STATE OF INTOXICATION IN TRAFFIC INCIDENTS

A very important issue in traffic incidents is the state of intoxication. The consequences of events involving drunk people are often tragic in the lives of both the person causing the accident and the victim (Oliwa, 2018) . In Poland, the permitted amount of alcohol in the body after which we can drive a car is 0.2 per mille in the blood. When the value is higher, we can distinguish two types of alcohol-related states. The first is the state after drinking alcohol. It is regulated in Article 46(1). 2 of the Act on upbringing in sobriety and counteracting alcoholism (Journal of Laws of 1982, No. 35, item 230). According to this article, alcohol consumption occurs when the blood alcohol concentration is between 0.2 and 0.5 per mille. The second is the state of intoxication, which is characterized by a blood concentration above 0.5 per mille. Driving a car under the influence of alcohol has been penalized in the Petty Offenses Code (Journal of Laws of 1971, No. 12, item 114), according to which a person driving a motor vehicle in land, water or air traffic is subject to the penalty of arrest or a fine. Additionally, if an offense is committed, such a person is banned from driving. Driving under the influence of alcohol leads to more serious consequences, therefore it is regulated in the Penal Code (Journal of Laws of 1997, No. 88, item 553) in Article 178a §1. A person who drives a motor vehicle while under the influence of alcohol may be subject to a fine, restriction of liberty or imprisonment for up to 2 years. However, if a person who has previously been legally convicted of driving under the influence of alcohol and during the period when a driving ban was imposed on him commits a situation §1 is punishable by imprisonment from 3 months to 5 years. The legislator accurately defined the limits of alcohol-related states. Medical specialists agree that the threshold for intoxication is 1.5 per mille of alcohol. However, 0.5 per mille is enough for a person to experience psychomotor disorders, which effectively limit the ability to drive any vehicle (Sawicki, 1958, Puchowski, 1956) . Research shows that the higher the concentration of alcohol in the blood, the chance of causing a traffic accident increases very quickly. At a concentration of up to 0.5 per mille, the risk of causing an accident is twice as high as with a taller driver. As I already mentioned, the more permille, the chances increase dramatically. At a concentration of one per mille, the chance increases seven times, and from 1.5 per mille it increases by as much as 36 times (Parpa, 2014). Therefore, you can ask yourself how much alcohol you need to drink for the methods of measuring alcohol concentration in the body to indicate the state of alcohol consumption or intoxication. Even after drinking one beer, about which there are opinions that "beer is not alcohol", the alcohol concentration in the blood is approximately 0.26 per mille. On average, the human body needs 3 hours to get rid of 20-30g of ethanol from the body. Other common drinks, such as 100 ml of wine contain 12 g of ethanol, and 50 g of vodka - 20 g of ethanol (TVN Turbo, 2020) . It should be noted that in Poland, as in most legislations, there is a limit, exceeding which results in liability for driving under the influence of alcohol. The great advantage of this approach is undoubtedly the ease of assessing whether a given person will be responsible for a misdemeanor or a crime (Cyprian, 1961). Of course, everything that has advantages also has disadvantages. Undoubtedly, the disadvantage of this approach is the fact that in very simple situations the result will be certain, but when the examined person is very resistant or not resistant to the effects of alcohol, the amount of alcohol consumed as well as cognitive and motor skills will differ (Taschen, 1954).

As for the methods by which a driver can be checked for alcohol content, in Poland, in accordance with the regulation of the Minister of Health and the Minister of Internal Affairs and Administration of December 28, 2018, it is permissible to check the alcohol content in the body using a breath test or a blood test. The first one is very simple and most people driving on Polish roads have probably already encountered it. It involves blowing into the breathalyzer for a few seconds, after which the breathalyzer lights up red or green. So-called screening breathalyzers are used for such testing. Older models indicate whether the driver is sober or not by lighting the appropriate diode. After a positive result for alcohol, you must use a very accurate breathalyzer, i.e. an evidential breathalyzer, which will determine the exact concentration in the body. Newer models of screening breathalyzers already have a display that immediately informs police officers about the amount of alcohol in the driver's exhaled air (NeoManiak, 2020).

The second method mentioned in the regulation is a blood test. Any driver can use this method. This method is quite popular among careless and irresponsible drivers who often use the so-called "double throttle". The reason for this behavior is that the blood test is not performed on-site, but must be carried out as part of a laboratory analysis, which allows such a person to " sober up " and reduce the potential level of alcohol in the blood. However, this is not the best solution to the situation. Even a person who has never drank alcohol in his life risks having his driving license suspended by the police for up to 30 days if he refuses a breathalyzer test. This happens because the policeman may have justified suspicions that the vehicle driver is under the influence of alcohol or under the influence of alcohol (Journal of Laws of 1997, No. 98, item 602) and tries to stall, thereby underestimating the potential result. The tested driver's blood is collected three times with 30-minute intervals. If the alcohol concentration is more than 0.0 per mille, a toxicology specialist will determine how many per mille the driver could have had in individual blood samples. Other situations when a driver may be taken for a blood test is when he questions the breathalyzer results or the concentration of alcohol in the exhaled air exceeds the breathalyzer's scale. It is worth noting that while a driver can refuse a breathalyzer test, he cannot refuse a blood test. If he resists, the police even have the right and obligation to use physical force to take blood for testing.

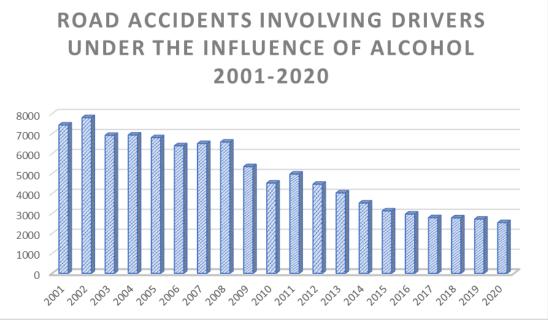


FIGURE 3: ROAD ACCIDENT INVOLVING DRIVERS UNDER THE INFLUENCE OF ALCOHOL 2001-2020

Source: Own study based on Symon, 2001-2020

Using annual police reports, a downward trend in accidents involving drunk drivers can be noticed. Interestingly, such drivers cause 8 times fewer accidents than sober drivers. However, such behavior should not be praised, because an intoxicated person has a much higher reaction time than a sober person and should never get into any vehicle as a driver. Of course, the greatest number of accidents involving drunk people occur during the weekend, i.e. Friday, Saturday and Sunday. Only on these days last year, there were 1,388 accidents in which 191 people died (327 people died in such accidents throughout the year) and 1,526 people were injured (there were 2,723 such people throughout the year). The weekend is, of course, a time for weddings, parties and meetings with friends, and therefore the tendency to drink alcohol in such circumstances increases. When it comes to the types of vehicles used by drunk people, the most numerous are, of course, passenger cars. Drivers of such vehicles caused 1,075 accidents. In accidents in which a drunk driver was at fault, 163 people died and 1,262 people were injured. Cyclists take second place and moped riders third. When it comes to the causes of such accidents, the main one, as you can easily guess, is, of course, the failure to adapt the speed to the traffic conditions. As I mentioned earlier, 0.5 per mille of alcohol in the blood causes a significant reduction in psychomotor abilities. The average driver reaction time is believed to be 1 second. For example, a car moving at a speed of 75 km/h covers ~ 21 meters in one second, and 14 meters at 50 km/h (Wojteczek, 2019). We are, of course, talking here about sober drivers, and if they are under the influence of alcohol, this time will obviously be longer. Adding to this the higher, prohibited speed, the number of meters a car covers in one second, and the extended reaction time caused by alcohol, a drunk driver becomes a serious threat on the road. The second most common reason for an accident

involving a drunk driver is failure to yield the right of way, and the third most common reason for an accident involving a drunk driver is too small a distance between the vehicles. Each of the above-mentioned causes is greatly influenced by alcohol and its effect on human motor and cognitive abilities. The largest age group among perpetrators are people aged 25-39. They led to 673 accidents in 2020. This article will end with showing how many drivers driving after drinking alcohol are disclosed by the Police each year due to the application of the Code of Petty Offenses and the Penal Code. Currently, the Penal Code no longer has provision 178a, paragraph 2, due to the amendment from 2013. It is included in the list, therefore I will quote its content : "Whoever, being in a state of intoxication or under the influence of a narcotic drug, drives a vehicle other than that specified in § 1 on a public road, in a residential zone or in a traffic zone, shall be subject to a fine, restriction of personal liberty or imprisonment for up to one year). Currently, the legal regulation is included in the Code of Petty Offenses in Art. 87 §1a.

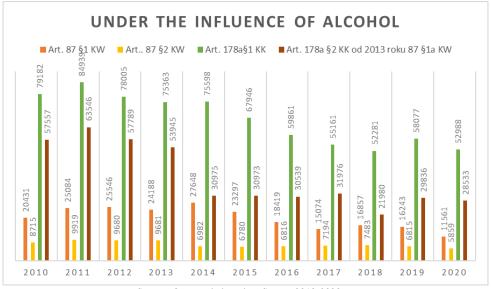
V. CAUSES OF TRAFFIC EVENTS

For a traffic accident to occur, the driver must violate the applicable safety rules in land traffic. The concept of security should be combined with the concept of threat, because it is the threat that causes a security breach. (Monet, 2016, p. 56). As Daniel Frei defined, threat is a state of false security, which consists in low perception of external threat (Fehler , 2002, pp. 166-167). This definition seems to be the most accurate. This is where drivers often violate safety rules because they are mistakenly convinced that the danger they cause will not result in any consequences. Unfortunately, sometimes such thinking leads to tragic situations. In 2020, the Police received 23,540 reports regarding road accidents and 382,046 regarding

collisions, giving a total number of 405,586 reported traffic incidents . (Symon , 2020, p. 6) . Unfortunately, the annual Police reports do not include data on the causes of collisions, so I will rely only on the causes of accidents. In 2020, the most common causes of accidents included failure to give way, failure to adjust speed to traffic conditions, and failure to give way to pedestrians at a pedestrian crossing. Many of these reasons, such as not adjusting the speed, avoiding a vehicle before crossing, or overtaking a car before crossing, perfectly meet the features of Daniel Frei's definition . The driver is in false safety and violates it, resulting in a hazard and a traffic incident. As I mentioned earlier, in traffic events there must be a triangle consisting of a vehicle, a person, and the road on which the vehicle is traveling. The reasons mentioned clearly show that almost each of these situations is caused by the behavior of the person who is the "weakest link" of the triangle. According to the data, men are responsible for most accidents -

they caused almost 75% of all accidents last year, while women caused almost 4 times fewer accidents, only 21.3%. Using the age criterion among drivers, it can be noted that the 25-39 age group caused the most accidents, while the least safe age group is the 18-24 age group. Using the accident rate per 10,000 population in 2020, it shows that this group had the highest rate of road accidents. Nearly half of all accidents caused by this group were caused by failure to adapt speed to traffic conditions. 60% of people involved in the incident died in accidents caused by them. Young drivers often do not realize the danger of driving at excessive speed, they want to show off to their friends, which leads to tragic situations. Such drivers are also characterized by lack of experience and often lack of driving skills. Of course, in every accident the blame cannot be attributed only to the driver of the vehicle. Other road users, such as pedestrians, are often responsible for the accident.





Source: Own study based on Symon 2010-2020



FIGURE 5: Age criterion among accident preparators

Source: Own study based on Symon 2020

The most common causes of accidents caused by pedestrians include careless entry into the road, crossing the road in an unauthorized place, and entering the road when the light is red. In turn, such behaviors were the cause of 830, 160, 134 accidents in 2020 (Symon, 2020, p. 31). Out of 1,385 accidents, 301 people died and 1,115 were injured. Unfortunately, in a human-car confrontation, humans are in a losing position. Based on research conducted by Jean-Louis Martin and Dan Wu, it appears that a pedestrian has a very high chance of survival if the collision occurs at a speed of no more than 50 km/h - then the pedestrian's chance of survival is 95%. Unfortunately, the higher the speed, the greater the risk to pedestrians. Raising the speed to 60 km/h leads to a three-fold increase in the risk of death for pedestrians. It is worth noting that most drivers drive at a speed of 60 km/h in built-up areas. This is a very popular practice among drivers. Accelerating to 70 km/h is only a 50% chance for a pedestrian, and hitting a person with a car at a speed of 80 km/h and higher will usually result in the person's death in every case. Taking into account the age of pedestrians as perpetrators, the largest group here are people aged 40-59 and 60+. People of this age often do not realize that a car needs time and distance to stop. A common practice among such people is to practically step in front of a moving car, with the mistaken belief that it will be able to brake in time.

VI. SUMMARY

Of course, humans are not the only factor causing accidents. Often, traffic accidents are caused by a car's technical failure. Last year (2020), there were 64 road accidents in which a car defect was indicated as the main cause. In total, the Police found 205 defects in vehicles traveling on the road in 2020. The main and most numerous defect is, of course, the lack of the required lighting. This is a difficult fault to detect for the driver, because while the lack of front lighting or the turn signal can be detected by oneself, the rear lighting is more problematic and in most cases requires the participation of two people. Fortunately, many cars are already equipped with a special indicator on the dashboard that informs the driver that some lighting is not working properly. Other confirmed defects included missing tires and failures of the steering and braking systems. All of the above-mentioned failures have a huge impact on land traffic safety and wear of any of them may lead to dramatic traffic incidents.

The occurrence of a traffic incident may also be influenced by other situations, independent of either the car or the driver. Last year, there were 764 such accidents, in which 133 people died and 791 were injured.

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